

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**SUSANA RAMOS**

Claimant

**APPEAL NO: 14A-UI-06895-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EL POTRO LTD LIABILITY CO**

Employer

**OC: 06/08/14**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 30, 2014, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 28, 2014. The claimant participated in the hearing. The employer did not respond to the hearing notice by providing a phone number where it could be reached at the date and time of the hearing as evidenced by the absence of a name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The employer did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time waitress for El Potro from November 15, 2011 to May 22, 2014. She submitted her two-week notice May 16, 2014, effective May 30, 2014, and the employer accepted her resignation.

The claimant told the employer she needed a break and was going to stop working for a while. The claimant asked for more hours after submitting her resignation notice May 16, 2014, but the employer did not comply with her request. She was frustrated because she was receiving less hours and was only being scheduled Thursday nights instead of during the day on at least Thursday, Friday, and Saturday. The claimant worked 10:00 a.m. to 3:00 p.m. or 5:00 p.m. to 10:30 p.m. but decided she only wanted to work day shift hours after submitting her two week notice. She told the employer she wanted more hours May 21, 2014, but the employer continued to only schedule her on Thursday nights. The employer did schedule the claimant for one shift after her two-week notice period was up. The claimant did not ask why she was scheduled that day because she had changed her mind about resigning but did not tell the employer she no longer wished to resign. After that date, the employer removed the claimant from the schedule due to her resignation notice.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

In Langley v. EAB, 490 N.W.2d 300 (Iowa App. 1992), the claimant gave notice of her resignation one month in advance and the employer accepted it. The claimant later attempted to withdraw the notice, but the employer refused. The Court of Appeals agreed that the separation was a quit. The factual question is whether the factors that led to the submission of notice constituted good cause attributable to the employer.

The claimant submitted her resignation notice May 16, 2014, effective May 30, 2014, because she “needed a break and was going to stop working for a while.” Her hours were decreased after she put her notice in. However, the employer has the right to schedule a part-time employee with no guarantee of hours, in the manner that best suits its business needs. The employer accepted her resignation. The claimant later changed her mind and wanted to rescind her resignation notice but failed to tell the employer of her plans prior to May 30, 2014 or when she was scheduled one day after her notice period ended.

Under these circumstances, the administrative law judge finds the claimant did voluntarily leave her employment and has not demonstrated that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

## **DECISION:**

The June 30, 2014, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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